

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

CUSTOM DESIGN, INC.

v.

C.A. No. 03-522ML

FAMILY DOLLAR STORES, INC.

MEMORANDUM AND ORDER

This matter is before the Court on Plaintiff's Motion for New Trial pursuant to Rule 59 of the Federal Rules of Civil Procedure. Plaintiff Custom Design, Inc. ("Custom Design") petitions this Court for a new trial on the grounds that (1) the Court erred in granting judgment as a matter of law with respect to Custom Design's claim for damages for the sixty-two unassembled display units at issue, and (2) the Court improperly instructed the jury that it could not consider those unassembled units when awarding damages.

I. Background

This case arises out of a contract dispute between Custom Design and Defendant Family Dollar Stores, Inc. ("Family Dollar"). Custom Design began manufacturing customized merchandise display units for Family Dollar in April 2001. In late 2002, Custom Design started production on a 300-unit lot of these displays. Midway through the shipment of this lot, Family

Dollar informed Custom Design that it would no longer purchase the display units. Ultimately, out of this 300-unit lot, 190 units were fully assembled by Custom Design and purchased by Family Dollar, 48 were fully assembled, shipped, but not paid for, and 62 remain at Custom Design's warehouse unassembled. Custom Design's complaint alleges that Family Dollar's failure to pay for the entire 300-unit lot constitutes a breach of the parties' agreement, for which Custom Design is owed damages.

Trial began on April 5, 2005, and lasted three days. At the conclusion of Custom Design's case in chief, Family Dollar moved for judgment as a matter of law, pursuant to Rule 50 of the Federal Rules of Civil Procedure. This motion was based in part on the grounds that Custom Design had not proven damages for the sixty-two unassembled units. The Court granted Family Dollar's motion on these grounds. Accordingly, the jury was instructed not to consider the sixty-two unassembled units when determining what amount of damages, if any, Custom Design had established.

On April 7, 2005, the jury returned a verdict for Custom Design, finding that Family Dollar breached a contract and owed damages in the amount of \$76,922.40. Custom Design filed this Motion for New Trial on April 15, 2005, Family Dollar objected, and the motion is now in order for decision.

II. Discussion

A. Standard of Review

Rule 59(a) of the Federal Rules of Civil Procedure provides in pertinent part:

A new trial may be granted to all or any of the parties and on all or

part of the issues (1) in an action in which there has been a trial by jury, for any of the reasons for which new trials have heretofore been granted in actions at law in the courts of the United States

Fed. R. Civ. P. 59(a). A federal district court may set aside a jury's verdict and grant a new trial only if the verdict is against the clear or demonstrable weight of the credible evidence or results in a miscarriage of justice. Bogosian v. Mercedes-Benz of N. Am., Inc., 104 F.3d 472, 482 (1st Cir. 1997); Ahern v. Scholz, 85 F.3d 774, 780 (1st Cir. 1996); Sanchez v. P.R. Oil Co., 37 F.3d 712, 717 (1st Cir. 1994). "The decision whether to grant a motion for a new trial is committed to the discretion of the district court." Parker v. Town of Swansea, 310 F.Supp.2d 356, 370 (D. Mass. 2004) (citation omitted). The burden is on the moving party to show that "the court committed error and that the error rendered the trial unfair." Id. at 370 (quoting MacNeill Eng'g Co. v. Trisport, Ltd., 126 F.Supp.2d 51, 64 (D. Mass. 2001)) (internal quotation marks omitted).

B. Judgment as a Matter of Law

Custom Design argues that a new trial is warranted because this Court erroneously granted Family Dollar's motion for judgment as a matter of law with regard to Custom Design's claim for damages for the sixty-two unassembled display units.

Rule 50 of the Federal Rules of Civil Procedure provides:

If during a trial by jury a party has been fully heard on an issue and there is no legally sufficient evidentiary basis for a reasonable jury to find for that party on that issue, the court may determine the issue against that party and may grant a motion for judgment as a matter of law against that party with respect to a claim or defense that cannot under the controlling law be maintained or defeated without a favorable finding on that issue.

Fed. R. Civ. P. 50(a)(1). This Court granted Family Dollar's Rule 50 motion because Custom Design failed to introduce any evidence as to the value of the unassembled units. The Court specifically rejected Custom Design's contention that it was entitled to the purchase price of the units under R.I. Gen. Laws § 6A-2-709. As more fully set forth on the record at the time the Court granted Family Dollar's motion, the evidence was clear that these sixty-two units had not been completed. They remained unassembled at Custom Design's warehouse. Consequently, Custom Design could not recover their purchase price because a party seeking damages for unique goods based on price under § 6A-2-709 must show that the goods were fully manufactured. Taft-Pierce Manuf. Co. v. Seagate Tech., Inc., 789 F.Supp. 1220, 1228 (D.R.I. 1992) (applying Rhode Island law) ("§ 2-709(1) which allows a suit for the price when the buyer fails to pay the price as it becomes due implies the completion of conditions precedent to payment before the seller can sue for the price...." (quoting Detroit Power Screwdriver Co. v. Ladney, 25 Mich.App. 478, 484-85, 181 N.W.2d 828 (1970)) (internal quotation marks omitted)). Moreover, Custom Design did not offer any evidence as to the value of the unassembled units upon which the jury could base a damage award. The Court therefore granted Family Dollar's motion as to that aspect of Custom Design's claim.

For these reasons as well as those set forth on the record at the time the Court made its ruling on Defendant's Rule 50 motion, Custom Design's Motion for New Trial on these grounds is denied.

C. Jury Instructions

Custom Design also contends that a new trial is warranted because the Court prevented

the jury from considering the sixty-two unassembled units when awarding damages. A new trial must be granted when jury instructions contain a prejudicial error. Sullivan v. Nat'l Football League, 34 F.3d 1091, 1107 (1st Cir. 1994), cert. denied, 513 U.S. 1190, 115 S.Ct. 1232, 131 L.Ed.2d 133 (1995). Custom Design objected to the Court's decision not to instruct on this issue during the trial itself. For the reasons set forth in this order as well as those set forth on the record at the time the Court made its rulings, Custom Design's Motion for New Trial on these grounds is denied.

III. Conclusion

For the reasons stated herein and on the record at trial, Custom Design's Motion for New Trial is DENIED.

SO ORDERED.

Mary M. Lisi
United States District Judge
April , 2005